



*Patrick Putt, Director  
Community Development Department  
P.O. Box 128  
Coalville, UT 84017  
(435) 336-3158  
pputt@summitcounty.org*

March 22, 2017

Mr. Steven D. Peterson  
Ballard Spahr, LLC  
201 South Main Street, Suite 800  
Salt Lake City, Utah 84111-2221

Re: Silver Gate Ranches Phase II

Dear Mr. Peterson,

I am in receipt of your letter dated March 3, 2017 and wanted to take this opportunity to once again set forth for you and your client, the position of Summit County and the Summit County Planning Department.

In March 2006 a Specially Planned Area (SPA) rezone and Development Agreement (DA) with specific development approvals and exhibits were approved in which your client was granted the ability to increase density on the property in exchange for certain community benefits and under certain enumerated conditions.

Within that Development Agreement was the approval of two (2) phases. Phase I was commenced and completed during the pendency of the Development Agreement (2006-2011). Phase II was not. However, within the development approvals was a specific approval for Phase II to have 18 lots in a specified area located at the "toe of the hill". That siting was specifically approved so that the remaining land would then be used only as open space which was one of the benefits provided to the County in order to get the increased density.

As you know, subsequent to the SPA and DA the Phase II land was included in the Richardson Flats Superfund area (Operable Unit 2 or OU2) with the United States Environmental Protection Agency (EPA), and at the request of and in cooperation with the EPA, Summit County adopted an overlay zone which included Phase II lands and requires prior to development, a certification from EPA or the State of Utah DEQ that all remediation and restoration obligations and/or plans are in place and that the development may proceed. As of this date, Summit County has not received any such certification.

Your client has always maintained that the Phase II land was "clean" and that there were no contaminants on the land, specifically in the development area. A few months ago, you also provided a study representing that there are no contaminants on the development portion of the land. Unfortunately, the lands that were tested and included in the soils analysis were NOT the lands and soils on which the development was approved. Rather, it was in the open space portion of the project and was accompanied by a request to allow you to develop the 18 lots in the open space rather than in the approved location. Summit County has received no soils study or analysis of the lands on which the homes were approved.

Because the DA has now expired there is no ability on the part of the Planning Department to consider any amendments or adjustments to the approved plans. Further, the existing land use code does not provide any mechanism to consider any alterations to the approved plan. I believe the County has been consistent in this position. You are correct that you are "vested" for an additional 18 single family homes ***in the location and configuration approved as part of the SPA and DA.*** In the event you want to bring forward a completed application for final site plan that conforms to that approval, Summit County will process the application.

However, it should also be noted that in the intervening time, you have, without proper permitting, graded and constructed a motocross track and a pond in the location where the homes were to be sited. Your assertion that "[n]o approval from the County was required" is not correct. You have filled the pond with water from Silver Creek, knowing that contaminants exist in that creek. As a result, it would be imperative to determine if your actions have now contaminated the soils where the pond is located (and where approved building sites are located) and consistent with the Overlay Zone ordinance have approval and sign off by the EPA and/or DEQ on a remediation and restoration plan. Your reference to a recent Executive Order of the President of the United States is not relevant as it does not supersede or affect the need to comply with the Overlay Zone and Summit County land use laws. Further, I don't believe it would have any impact on the existing Administrative Order on Consent for OU2. These non-conforming and non-permitted constructions would need to be removed and remediated prior to any development approval and any actions to "drain the pond" or remediate the motocross track would in fact require a low impact permit and grading permit from Summit County with appropriate bonding and inspections.

On February 24, 2017 your client attempted to submit an application and final site plan which was not complete and not consistent with the approvals and had building parcels which exceeded the approved acreage and which were located within the open space. For these reasons the submission was appropriately denied.

There are many other assertions in your March 3, 2017 letter with which we disagree, but I will not detail those at this time as I believe they are not relevant to the discussion.

As you requested, I am certainly happy to meet with you to discuss this matters in greater detail. I can be reached at (435) 336-3158.

Sincerely,



Patrick J. Putt  
Summit County Community Development Director

cc: Jami Brackin, Summit County Attorney's Office  
Gary Horton, Summit County Engineer  
Sean Lewis, Summit County Planning Dept.  
Rob Parker, US EPA  
Amelia Piggot, US EPA  
file